

NO. FBT-FA-19-6088163S

CHRISTOPHER AMBROSE

V.

KAREN AMBROSE

: SUPERIOR COURT

: J.D. OF FAIRFIELD AT

: REGIONAL FAMILY

: TRIAL DOCKET - MIDDLETOWN

: JANUARY 25, 2022

Order and Memorandum of Decision

1. The court disbars Nickola Cunha.

The court disbars Nickola Cunha. Through her grave misconduct, she has forfeited her position as an attorney and an officer of this court. From the filing of this memorandum and order, she may no longer practice law in this state or appear before a court in this jurisdiction on behalf of any person other than herself.

Whatever the fashion in ordinary public discourse, in court, lies by lawyers will be punished by judges. This court has already found that Ms. Cunha repeatedly pressed empty and malicious claims that Judge Gerard Adelman favored Jews, protected pedophiles, and discriminated against the disabled. Now the question of Ms. Cunha's punishment is at hand.¹

To be just, the punishment must fit the wrong. So, it's important to note that here the offenses were particularly rank. They not only involved a fraud on the court,

¹ The court takes notice of the court's full Ambrose file. It attaches the transcripts of the original December 1, 2021 hearing and the January 10, 2022 hearing on whether to discipline Attorney Cunha as Court's Exhibit A and B.

Copies mailed to Christopher Ambrose, Aldrich & Aldrich, Karen Riordan, Nickola Jean Cunha, Jocelyn B. Hurwitz, Reporter of Judicial Decisions by: Evan Knowlton RFD on 11/25/2022

but a scurrilous assault on the integrity of a judge. The offense was aggravated by its context and by Ms. Cunha's behavior at the hearing on potential punishment.

She is wrong to think the constitution permits a lawyer say anything she wants in court, no matter how baseless it may be. The First Amendment does not give a commissioner of the Superior Court the right to intentionally deceive the court that granted her that commission. The court has right to take away that commission, and for good cause it chooses to do so now.

2. Ms. Cunha's offenses were most serious.

Ms. Cunha's offenses involved three baseless claims. She claimed and then failed to show a scintilla of evidence to prove that Judge Adelman was biased against non-Jews, was biased against the disabled, and protected pedophiles.

The court said enough about the empty claim concerning the disabled in its earlier opinion. But it's worth reviewing the other two matters because they are unusually serious claims and she pressed them repeatedly.

The claims arose following Judge Adelman's referral to this judge of the questions raised by Ms. Cunha during the trial of this case. After she berated Judge Adelman repeatedly, he even considered a declaring a mistrial, but ultimately made the referral instead.

When it initially considered the referral, it seemed to the court that there was nothing to do about it. Judge Adelman didn't move to disqualify himself. And no party had moved to disqualify him. But when the court asked the parties if either

side was seeking to disqualify Judge Adelman, Ms. Cunha said she was, and then filed a motion to do so.

At the hearing on the motion to disqualify, Ms. Cunha repeatedly claimed, starting on page 4 of the Exhibit A transcript that: “Judge Adelman also has a bias against anyone that is not of the Jewish faith.” On that same page she claimed she was making this claim “on a significant amount of information that has been sent to me over the last several weeks. And it’s really disturbing.” She said on the same page that her belief was “a recent belief based on the enormous amount of information and evidence that’s come to me.”

After 36 pages of discussion, the court found itself still asking Ms. Cunha for the evidence about Judge Adelman’s bias against non-Jews, the disabled and women who complained about abuse. The court asked: “where do these things come up?” “Was there an incident?” And again two pages later: “what I want is your evidence about him favoring Jews, the – the nondisabled, and men.” (See the bottom of page 38).

Ultimately, the upshot of Ms. Cunha’s claim about Judge Adelman favoring Jews appears on page 39 of the transcript: “what I have learned - and I will admit that I’m naive to this – this particular subject - is that Attorney Aldrich is Jewish, Attorney Hurwitz is Jewish, the - the – the custody evaluator in this case Dr. Biren Caverly is Jewish. Dr. Horwitz, the supposed reunification therapist, is Jewish in this case.”

Because Ms. Cunha had already alleged on page 15 that Judge Adelman was a “racketeer”—as a mobster might be—the court asked on pages 43, 57-58 if Ms. Cunha was claiming a conspiracy. Her answer on that page was unequivocal and repeated:

THE COURT: Are you saying they're all Jewish or something, that they conspired -

ATTY. CUNHA: Oh. Yes.

THE COURT: Just to be clear, I just want to make sure I have (indecipherable) so, what you're claiming is that Judge Hurwitz and Judge Grossman favor lawyers who are Jewish -

ATTY. CUNHA: Yes.

ATTY. CUNHA: I will say that in this particular case as in other cases the conduct is consistently favorable to attorneys and professionals of the Jewish faith.

Of particular concern to the court at the hearing was Ms. Cunha's claim that her allegation about favoring Jews was based on "the enormous amount of information and evidence that's come to me." The court pressed for it, and Ms. Cunha finally said at page 58 (with the court's emphasis added) that it was about a list of cases where the bias would appear:

ATTY CUNHA: But, when you start looking at the cases and you start looking at the professionals engaged in the cases, it is consistent and it supports that claim.

THE COURT: Okay. So, we've talked about this and maybe this is the time for me to press you on it. You said that - so, the - so, you claim that he favors Jewish professionals and Attorney Aldrich in particular.

Where would I look to find that? In other words, did you survey a list of cases in which whatever Attorney Aldrich says, she gets. And - or you say maybe there's - maybe there's a 100 cases and that the Jewish lawyers always win or something? You - you must have a basis for saying what you're saying. What is it? Where would I look to find that?

ATTY. CUNHA: So, I'm just - **I have a list of cases where Attorney Aldrich was one of the attorneys where Attorney Hurwitz is the guardian ad litem and either Judge Grossman or specifically Judge Adelman** -[emphasis added]

THE COURT: This is about Judge Adelman so –

ATTY. CUNHA: Right. Well, it's also about Judge Grossman because Judge Adelman denied my motion to recuse her without prejudice. But then, he sends a motion for clarification to Judge – to Judge Grossman knowing the concerns I have with her. **So, it's a vicious circle –**

THE COURT: This is part of the broader Jewish conspiracy. In other words –

ATTY. CUNHA: Correct.

THE COURT: - Judge Grossman and Judge Adelman - all right. **So, what cases should I look at?**

ATTY. CUNHA: Just one moment.

After some fumbling about one potential case, at page 60 of the transcript, and with emphasis added here by the court, the court pressed again for the list of cases as Ms. Cunha claimed to be searching through her computer:

THE COURT: Well, I assumed you must have had a list already because you –

ATTY. CUNHA: I –

THE COURT: - claimed that this is a pattern.

ATTY. CUNHA: I do. **I'm just trying to pull the list up, Judge.**

THE COURT: I see.

ATTY. CUNHA: I have different screens up, so I'm trying to get to it. It's just taking a little bit – a little -

And so it went until Ms. Cunha was finally forced to admit that she didn't have the list she said she was just trying to pull up—the list showing Judge Adelman consistently favoring Jews over non-Jews. Indeed, Ms. Cunha finally gave up pretending after the court waited for a half an hour while she said she was “looking”

for the list. The court gave her every chance to produce it:

THE COURT: So, by the way, if what you want to do is to print that list and it make an exhibit, we can do that if you have that list ready to print.

ATTY. CUNHA: Can we do that during the break? And then, we can go the over the names.

When at last the break was over and the court returned to the topic of the list of cases where Judge Adelman and Judge Grossman allegedly favored Jews, Ms. Cunha's claim of "enormous amount of information and evidence" proved entirely false. By that time, her "enormous" claim had boiled down solely to the list of cases showing a pattern. But, at last, Ms. Cunha admitted the list she said existed in fact never existed: (see page 71).

THE COURT: But, in terms of the – of what you – in terms of what you said about favoring Jews over non-Jews, you – you – you – there isn't a list of cases that you're pointing to me about that; is that – is that right?

ATTY. CUNHA: There – there is not, Judge.

Instead, Ms. Cunha hastily turned to her next claim—a list of cases she said showed Judge Adelman protecting sexually abusive men. We will return to that later.

But first the court should consider the relative significance of an attorney making a baseless charge of racism against a judge.

It should be easy to see that this is a monstrous claim to make without thought, without evidence, without restraint, repeatedly, on the record, in court, with a specific claim about a list—that proves not to exist.

This is a matter about a lawyer. When lawyers speak, the public rightly assumes they don't speak lightly. After all, the truth is their business. Therefore Ms. Cunha's

lies about a Jewish conspiracy are particularly reprehensible. Without the court exposing them as lies, the public might give them some credit when they deserve none. Misconduct like this threatens to drag the courts into the primordial ooze that passes for public discourse in some quarters today. One whiff of this swamp should be enough for the courts and those of its officers who are true to their duties to set out firmly in the other direction. This moment is one chance to do so.

And this leads us to consider the seriousness of Ms. Cunha's second lie. This one goes to the heart of the Ambrose case itself. Karen Ambrose—now Riordan—claims her husband Christopher Ambrose has sexually abused his children. It has been no part of this judge's duty to decide whether this is true—that question is for the judge trying the case.

The issue before this judge has been Ms. Cunha's claim that Judge Adelman consistently shields sexual abusers.² Most important for this ruling, Ms. Cunha claimed emphatically and repeatedly that DCF records would reveal that the claims against Christopher Ambrose had been *found to be true* and Judge Adelman has been ignoring this. Specifically, at pages 97 and 99-100 of the transcript (with emphasis added by the court) she insisted the court could find in DCF record Exhibit 71 the conclusion of a multi-disciplinary task force that Christopher Ambrose sexually abused his children:

ATTY. CUNHA: But they are complaining of **sexual assault. It has been established that the complaints have been substantiated by a multidisciplinary taskforce team** who – who recommended those children not be with their father. And, because of the lies presented to the court by the guardian ad litem and Attorney Aldrich manipulating the facts, **Judge Adelman has ignored the real evidence.** And -

² In its earlier ruling, the court dealt extensively with the list of cases Ms. Cunha claimed as support for her claim of a pattern. There was no pattern. The court will focus here then on the far worse claims made about this case.

...

THE COURT: **if I look at that DCF document, within that document there are the conclusions of a multidisciplinary taskforce that Christopher Ambrose has sexually assaulted his children repeatedly** and that – and that the taskforce recommends that he – that they be taken away from him. Is that what –

ATTY. CUNHA: **Yes. Yes.** And you will also find that the legal department for DCF recommends that DCF file a take into custody matter with the juvenile court.

ATTY. CUNHA: It's Exhibit Number 71.

THE COURT: 71. Okay. I'll look at that. **And you want me to conclude from that that was a matter you brought to the court's attention, that it has a clear conclusion, essentially, that the children are in immediate danger –**

ATTY. CUNHA: **Yes.**

...

THE COURT: - the DCF – **the DCF report –**

ATTY. CUNHA: Yes.

THE COURT: - **will quote this taskforce saying that – that the father committed sexual assault against the children** and should be – and they shouldn't be allowed with him. That's what I'll find in there; right?

ATTY. CUNHA: **Yes. Absolutely.**

Sometimes we can say "absolutely" about some things. As the court previously concluded, the report absolutely *did not* include any conclusion from a multidisciplinary task that Christopher Ambrose sexually abused his children. Ms. Cunha wasn't telling the truth about what was in it. Indeed, the entire record in the case contains nowhere a multi-disciplinary task force finding that Christopher Ambrose sexually assaulted his children. The court even proposed to the parties to unseal all the exhibits so that all could see that this was not so. Both sides strenuously objected, so the

court won't unseal Exhibit 71 or other documents with details about the family.

Still, the DCF records do show some things bearing on the basic question whether Judge Adelman was ignoring agency findings that Christopher Ambrose abused his children. They show that Ms. Cunha made a related claim that was another baseless fabrication. She repeated it even in the face of this disciplinary hearing. At pages 52-59 of the Exhibit B January 10, 2022 transcript (emphasis added by the court), Ms. Cunha doubled down on a claim that DCF never investigated Mr. Ambrose and never cleared him:

ATTY. CUNHA: My notes further reflect that **DCF did not investigate the claims of sexual assault. DCF did not.**

ATTY. CUNHA: In fact, the exact testimony, from the DCF workers, is that **he was never investigated for sexual assault by DCF.**

ATTY. CUNHA: Judge, **you're not going to find substantiation or unsubstantiation because that was not the nature of the proceedings that took place with DCF.**

The reality of what DCF did shows that Ms. Cunha's disrespect for the truth is glaring and makes her offenses of the most serious kind. She said these things with access to all the proposed and admitted exhibits in the case. She said these things after Attorney Aldrich named the key exhibits for her in the hearing prior to this one. She said them with her career on the line.

It is vital to the public interest to show the extent of Ms. Cunha's wrongdoing. Therefore, the court will partially overrule both parties. It will publish limited DCF documents that directly address Ms. Cunha's assertion that DCF never investigated or cleared Mr. Ambrose. The court has balanced the family interest in privacy with the public's interest in the integrity of the courts. The rules command that the court give the

latter priority, but it has no fear about the former. It will not reveal any personal details of the children beyond their already public names that can be found in the complaint and throughout the pleadings.

Two DCF documents will be attached as exhibits. Here is what they show about Ms. Cunha's claim that: (1) the DCF did not investigate Mr. Ambrose, and (2) DCF made no finding about whether the claims were substantiated or unsubstantiated.

They are marked as Exhibit 7B and 7C for the trial. They are attached to this ruling as Exhibits C and D. They are entitled "**NOTIFICATION OF INVESTIGATION RESULTS**". One is from 2020 and one is from 2021. With emphasis added here by the court, they both begin by telling Mr. Ambrose "The Department of Children and Families (**DCF**) **recently investigated** reported allegations that you abused or neglected a child or children."

How could Ms. Cunha, having seen the documents and having heard Attorney Aldrich refer to them at the last hearing, repeatedly insist that DCF did not investigate Mr. Ambrose? She could not. She could not without revealing that she lacks respect for the truth and her professional allegiance to it.

What about Ms. Cunha's claim that DCF never decided whether the claims were substantiated or unsubstantiated? With emphasis added by the court, the 2020 document says that "**DCF has concluded the following**":

| Child's Name | Allegation | Disposition |
|---------------------|-------------------|--------------------|
| Sawyer Ambrose | Physical Neglect | Unsubstantiated |
| Mia Ambrose | Sexual Abuse | Unsubstantiated |
| Sawyer Ambrose | Sexual Abuse | Unsubstantiated |
| Mia Ambrose | Medical Neglect | Unsubstantiated |
| Sawyer Ambrose | Physical Neglect | Unsubstantiated |

Matthew Ambrose

Physical Neglect

Unsubstantiated

The 2021 document says that **“DCF has concluded the following”**:

| Child’s Name | Allegation | Disposition |
|---------------------|-------------------|--------------------|
| Sawyer Ambrose | Physical Neglect | Unsubstantiated |
| Mia Ambrose | Physical Neglect | Unsubstantiated |
| Matthew Ambrose | Physical Neglect | Unsubstantiated |
| Sawyer Ambrose | Sexual Abuse | Unsubstantiated. |

The DCF documents say even more. With emphasis added here by the court, they both specifically state to Christopher Ambrose that **“DCF finds that you do not pose a risk to the health, safety or well-being of children.”**

It passes understanding why a person would wager so much on blatant falsehoods. Ms. Cunha was warned repeatedly of the seriousness of this matter and still chose to reassert and insist on things about the DCF Ambrose records when she had every reason to know they were completely false.

And that leads us to the next event that makes Ms. Cunha’s wrongdoing so serious. Prior to the hearing the court gave Ms. Cunha almost a month’s warning. The court told her she faced serious potential consequences. The court urged her to hire a lawyer. It warned her that it was giving leave for the chief disciplinary counsel’s office to appear as *amicus curiae*—as a friend and advisor to the court.

The court hoped that Ms. Cunha would reconsider her claims. It expected she might say how she came in good faith to believe the things that proved false. It wanted her to explain about her background, her experience as a lawyer, and hear a plan that would include diligent devotion to the truth in the future. The court said as much at the hearing. Instead, here, with emphasis added by the court, is what the court heard from

Ms. Cunha at page 4 of the Exhibit B transcript:

ATTY. CUNHA: There's quite a few other issues, Judge. Frankly your findings are clearly erroneous. **I find these proceedings to be intentionally harassing and intimidation** and an attempt by Your Honor solely to shut me down for the **corruption** that I have raised before this Court.

Your Honor has engaged in malfeasance, gross malfeasance, I will not be intimidated. I will not be harassed by this Court. I will remind this Court that **your so-called** historical writing **Memorandum of Decision** where you touch upon the history that it is, **it is a joke, and it is pathetic, and you should be ashamed of yourself for subjecting myself to that type of rhetoric.**

Frankly, Judge, **I am ashamed to even be sitting before you** with the type of conduct that you engaged in. **You have engaged in material misrepresentation; you have lied to the public.** You have done so solely to put me in a poor light among the public and to interfere with my constitutional rights as an individual of this state. My constitutional rights as (audio skipped) and my client's constitutional rights.

And at page 19 of the Exhibit B transcript with emphasis added by the court, after additional browbeating by Ms. Cunha the court asked her to stop:

THE COURT: Attorney Cunha, I'm going to ask you to stop speaking.

ATTY. CUNHA: **Yes, Judge. Yes. I will obey, Your Honor, would you like me to bow, I'm sorry, I am below you, I will obey. I will be quiet, no problem.**
Thank you.

Ms. Cunha's behavior at the hearing highlights the seriousness of her misconduct and is one of the aggravating circumstances the court considered under the Rules of Professional Conduct.

Those professional conduct rules provide multiple grounds to justify disbaring Ms. Cunha. Specifically, Ms. Cunha has violated at least seven rules in the Rules of Professional Conduct that govern attorney conduct:

Rule 3.1- forbids lawyers from making meritless claims in court.

Rule 3.2- requires lawyers to expedite rather than delay cases.

Rule 3.3-prohibits lawyers from knowingly providing false information in court.

Rule 3.5- requires decorum and bars lawyers from disrupting proceedings.

Rule 8.2-prohibits lawyers recklessly impugning a judge's integrity.

Rule 8.4 (3)-prohibits lawyers from dishonesty or deceit.

Rule 8.4(4)-prohibits lawyers from hindering the administration of justice.

Those involving dishonesty—Rules 3.1,3.3, and 8.4 (3)—are easy for the court to apply. As illustrated above, the court finds by clear and convincing evidence that Ms. Cunha intentionally and persistently misrepresented the facts to the court. It finds that she did this to continue to pursue a false narrative about sexual abuse conclusions that she has maintained throughout her time in this case against judges, lawyers, guardians, evaluators, and the defendant.

That false narrative seems to be part of a tactic of stalling and diverting this case. Her latest attack on Judge Adelman isn't her first. Ms. Cunha has also tried to jam the wheels of justice by attacking all the other legal professionals in the case, now including this one. The case has been repeatedly ground to a halt by these attacks, by the filings noted in the earlier ruling in juvenile court, a filing for emergency custody, appeals, and even a separate case for injunctive relief. On top of this, the court notes that, at Ms. Cunha's request, the case has been continued fifteen times. No wonder the case stands out as an embarrassment to the bench. Ms. Cunha and her client have made it so. The court, therefore, finds by clear and convincing evidence that she has violated Rule 3.2 by intentionally and groundlessly delaying this case.

The rules that implicate the dignity and integrity of the bench and the judicial system bother the court most. They are rules 3.5, 8.2, and 8.4(4). Public confidence in the integrity of the judiciary is imperative. Judges have good reason to redouble efforts to make our institution work and be seen to work. One of the things they must do to

achieve this is to reign in lawyers who exploit the system's weakness by tying cases up in knots, hurling baseless accusations, delaying cases, harassing parties, and doing whatever they can to keep a case from having a speedy and fair outcome.

It is widely perceived that parties seek to punish each other in family court litigation by using the legal system in a way that it was not meant to be used. Judges can help dispel this impression by stopping a small minority of family court lawyers from abusing our system and damaging its reputation. The court finds by clear and convincing evidence that Ms. Cunha has disrupted proceedings, baselessly impugned the integrity of Judge Adelman, and prejudiced our system of justice by using it to punish a party opponent along with all the legal professionals in the case rather than to vindicate some righteous claim. Her actions have been grave. They have been intentional. Her motives have been corrupt—they have been to cloud the truth for the perceived benefit of her client, rather than to seek out the truth and seek out the justice associated with that truth.

Ms. Cunha assails the court in response—making this the third judge in this single case she has called corrupt and abusive. She claims the court has no right to punish her for what happened at the hearing on her motion to disqualify Judge Adelman. But she cited no authority for her claim, and she is wrong. The court discussed this in its earlier ruling.

For matters of courtroom conduct Practice Book Rule § 2-45 assigns to the court the primary jurisdiction over lawyer misconduct. Ms. Cunha argues that because this judge found that she had lied, this judge is biased and therefore forbidden from imposing a consequence for the lies. This same logic if applied would mean that every time a court found against a party in a case that it would be forbidden to award damages

against the wrongdoer. Under her theory, every court trial would have to be split, with one judge deciding liability and another judge deciding the remedy for the wrong. Nothing in the law supports so gross an absurdity.

Although she had almost a month's notice about it and had just finished saying on page 3 of the transcript that, "I am fully aware and understand what the nature of these proceedings are", Ms. Cunha appeared to misunderstand the status of a representative of the chief disciplinary counsel's office. Ms. Cunha demanded "charging documentation". She demanded the right to call the court as a witness and to know in advance what each participating lawyer would say. She did appear to understand that it was the court considering discipline but ignored that the court in its earlier ruling specifically said that the disciplinary counsel was invited solely as a friend to the court—an *amicus curiae*, and for no other reason.

As an experienced lawyer, having been urged by the court to get her own lawyer, and having been told in advance of the seriousness of the proceedings, Ms. Cunha could have asked for more time, engaged a lawyer, or at least behaved in some way less contemptuous of the proceedings. But she didn't hesitate. She berated the court, mocked it, and mocked the proceedings. That was her choice.

The court gave her every chance and more process than she was legally due. Indeed, Practice Book §2-45 makes clear that where a cause for discipline occurs "in the actual presence of the court, the order may be summary, and without complaint or hearing." The court gave her a hearing anyway. It told her in advance that she faced potential serious consequences. It told her that the hearing would consider punishment for her lies about Judge Adelman's alleged discrimination against non-Jews, the disabled, and sexual abuse complainants. The court heard her for over two hours at both

hearings. She was given a meaningful hearing on the disciplinary matter with almost a month's notice of its purpose. She spurned it. She will have to live with the consequences

Ms. Cunha wrongly asserts that her misconduct as a lawyer is protected by the First Amendment to the United States Constitution. But if the First Amendment doesn't allow anyone to falsely cry "fire" in a crowded theater,³ it certainly doesn't permit a lawyer to falsely claim conspiracy in a crowded courtroom.

As the United States Supreme Court reminded us in 1991 in *Gentile v. State B. of Nevada*: "It is unquestionable that in the courtroom itself, during a judicial proceeding, whatever right to 'free speech' an attorney has is extremely circumscribed."⁴ As the Appellate Division of the New York Supreme Court held in *In Re Giuliani* in 2021, there may be limits on that circumscription of attorney speech, but those limits aren't implicated in any way by a court punishing an attorney for lying in court.⁵

Instead, as the Connecticut Supreme Court held in 2020 in *Lafferty v. Jones*, our courts have the power to punish misconduct like Ms. Cunha's because: "The inherent authority to administer judicial proceedings carries with it a corollary power to control those involved in court business—parties, witnesses, jurors, spectators, and lawyers—to maintain order, decorum, and respect."⁶

The First Amendment does not protect Ms. Cunha from being punished for misconduct in court.

3. Disbarment is the appropriate penalty.

³ See, *Schenck v. United States*, 249 U.S. 47 (1919).

⁴ 501 U.S. 1030, 1071 (1991)

⁵ 1146 N.Y.S. 3d, 266, 270.

⁶ 336 Conn. 332, 338-39.

Disbarment is the appropriate penalty for conduct as egregious as Ms. Cunha's. The court has the power to do this by virtue of Practice Book §2-45 which states that: "The Superior Court may, for just cause...disbar attorneys." The court finds just cause here by clear and convincing evidence.

It finds that disbarment is particularly appropriate because Ms. Cunha's false claims against Judge Adelman consisted of claims that he was biased against non-Jews, biased against the disabled, and biased against women alleging child sex abuse.

The Connecticut Supreme Court upheld the disbarment of a lawyer who alleged bias against a judge in 2003 in *Burton v. Mottolese*. In doing so, the Court noted: "Of all the charges that might be leveled against one sworn to administer justice and to faithfully and impartially discharge and perform all the duties incumbent upon [a judge]...a charge of bias must be deemed at or near the very top in seriousness, for bias kills the very soul of judging—fairness."⁷

Further support for disbarment in this case comes from the American Bar Association *Standards for Imposing Lawyer Sanctions*. Section 5.11 (b) and Section 6.11 say that disbarment is appropriate when to harm their opponents and frustrate the justice system lawyers are intentionally dishonest, when they lie and attempt to defraud a court in ways like those involved here that so adversely reflect on Ms. Cunha's fitness to practice.

Section 7.1 is particularly appropriate here because the court has found that Ms. Cunha has abused her position as a lawyer in an attempt to benefit her client by snarling this case into an un-triable mess rather than seeing that is heard in the orderly and regular way. She did so with intent to cause serious injury, not only to her opposing party, but to

⁷ 267 Conn. 1, 49, quoting *Wendt v. Wendt*, 59 Conn. App. 656, 693, *cert. denied*, 255 Conn. 918 (2000).

disrupt and damage the integrity of the judicial system itself.

Things might be different if there were substantial mitigating factors here. But there aren't. There is only the fact that Ms. Cunha has not been disciplined before, but that is by no means enough to offset the seriousness of her wrongdoing.

Ms. Cunha might claim she apologized at page 40 of Exhibit B where she said: "First and foremost, I do apologize, but it is not to the Court, it is to the Jewish Americans of this state and of this country." She refused to apologize for disrupting and attacking the court. What's more Ms. Cunha followed her "apology" to Jewish Americans on the same page—at a disciplinary hearing—with renewed attempts to prove that Jews all know each other:

Overall, based on the 2020 research center survey, Jewish Americans reflect the U.S. population was only 2.4 percent, that's 5 million, 800 thousand. And of that 350 million is our total population in the United States. In Connecticut we have a total population as of the same review in 2020 of 3 million citizens. Of those 3 million citizens we have a Jewish American population of 3.28 percent.

Based on that I believe it is common knowledge, and that the Court is well aware, that when you are in a small state, among certain groups of professionals, your culture, your hobbies, your beliefs are well known among that professional group.

Ms. Cunha's "apology" can hardly be called mitigating.

So, while there is only one mitigating factor, there are numerous aggravating factors. The details aren't necessary to repeat here. Ms. Cunha has been disrupting this case for a long time with bogus motions, duplicate proceedings, baseless attacks on the lawyers and judges and experts.⁸ She didn't just lose her temper one day and do things she has

⁸ The ongoing nature of Ms. Cunha's wrongs can be seen in the November 9, 2021, and October 20, 2021 transcripts the court attaches as its Exhibits E and F as well as from the docket here and in the other proceedings she filed.

regretted. She has systematically tried to use the justice system against itself in a bid to frustrate it, in a bid to discredit it, in a bid that, if unchecked here and elsewhere threatens to destroy it as a credible instrument of democracy. Ms. Cunha didn't even stop when she found herself faced with punishment. Once again, she mocked and disregarded the court's authority. She will not be given a chance to do it again.

The court knows that Practice Book §2-53 allows disbarred attorneys to apply for reinstatement five years after being disbarred, but the court's judgment is for disbarment until reinstatement. Its order is not confined to any number of years. Nickola Jean Cunha (417834) is permanently disbarred unless reinstated. Ms. Cunha will have the right to apply for reinstatement within five years of this order, not by virtue of the court's ruling, but because the Practice Book gives her that right.

4. Conclusion: This case must be tried and decided.

It only remains for the court to observe that those who examine the docket in this woebegone case may be tempted to see a broken system. Indeed, Ms. Cunha and her client have lashed the system as broken and corrupt. But the case's tortured history may be better explained by the system indulging Ms. Cunha and her client too much. In a quest to achieve fairness and to give the benefit of every doubt, the system has allowed itself to be tied in knots. The trial must now proceed. The stay is hereby lifted.

But the trouble is not over. From the court's original ruling this month to the present, Ms. Cunha's now former client has filed some eighteen new motions seeking to disqualify the court and others, transfer the case, seek a mistrial, and otherwise carry on with the now established pattern of attempts to prevent this case from being heard on its merits.

These motions will receive the treatment they deserve.

BY THE COURT

434447

Moukawsher, J.